

### **REMARKS**

Claims 1-47 stand rejected under 35 U.S.C. 102(b) as being anticipated by Zingher (US Patent 5,731,575). Zingher discloses a computerized system for discreet identification of a duress transaction and/or duress access. (Zingher, Title).

Regarding the independent claims 1, 21 and 40, the Examiner asserts that Zingher discloses each and every element of the claims. Specifically, the Examiner asserts that Zingher discloses “receiving a first request from a vendor to authorize a transaction” (saying that a personal identification number request is inherent prior to “access number entered” at Zingher, Figure 7, item 50), “sending a second request for authorization to an account holder” (citing Zingher, Figure 7, item 50), “receiving a first electronic response from the account holder providing a personal identification number” (citing Zingher, Figure 7, item 55 or 65), and “initiating remedial action if the duress personal identification number is received” (citing Zingher, Figure 7, item 70). However, “a claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987).

Applicant asserts that the Examiner has not made out a prima facie case of anticipation because Zingher does not disclose *each and every element as set out in the claims*. Specifically, the Examiner’s assertions regarding the four steps of the claim 1 are inconsistent with each other.

Regarding the step of “receiving a first request from a vendor to authorize a transaction”, the examiner makes a first assertion that the vendor is the ATM and that the ATM inherently requested a PIN before the “access number entered” step 50. Regarding the second step, the examiner makes a second assertion that the step of “access number entered” in Figure 7, item 50 discloses “sending a second request for authorization to an account holder.” While Applicant does not agree with this application of the reference, Applicant wishes to merely show that the Examiner’s first and second assertions are inconsistent. Applicant asserts that if there is an inherent step prior to step 50 in which a vendor/ATM requested a PIN, then the account holder’s entry of an access number or PIN would not be a request for authorization sent to an account

holder (i.e., “sending a second request for authorization to an account holder”). Entry of the PIN is not a request at all, and it is certainly not a request sent to an account holder since it is the account holder that enters the PIN. Reconsideration and withdrawal of the rejection is requested.

Furthermore, the examiner makes a third assertion that Zingher’s step 55 (stating “Correct PIN?”) or step 65 (stating “PDN?”) discloses the step of “receiving a first electronic response from the account holder providing a personal identification number.” However, steps 55 and 65 do not disclose receiving a response from the account holder. Rather, steps 55 and 65 disclose that a computer means or processor attempt to “verify the PIN number at step 55” and “verify the number as the customer PDN number, step 65.” (Zingher, col. 7, lines 2-9). Zingher’s steps of “verifying” information do not disclose the step “receiving a first electronic response from the account holder providing a personal identification number” *as set out in the claims*. Reconsideration and withdrawal of the rejection is requested.

Regarding claim 2, Zingher at Figure 7, step 55 does not disclose “receiving a second response”, since step 55 involves only computer means that “attempts to verify the PIN number.” (Zingher, col. 7, lines 2-3). “Verifying” does not disclose “receiving” as set out in the claims. Reconsideration and withdrawal of the rejection is requested.

Regarding claim 3, the Examiner now makes a further assertion that the “first request” would include an account number, an amount to be charged against the account, an amount to be debited from the account and a vendor code. However, the Examiner’s first assertion was that it was inherent that the “first request” was the vendor/ATM requesting a PIN from the user before the “access number entered” step 50. These two assertions are again inconsistent. If the first assertion is correct, then the examiner’s present assertion is false because a vendor/ATM would not issue a request containing an account number or an amount to be charged or debited. This type of information comes from a user or account holder, not a vendor/ATM. Reconsideration and withdrawal of the rejection is requested.

The foregoing arguments specifically directed to claims 1-3 are equally applicable to claims 21-23 and 40-42. Claims 4-20, 24-39 and 43-47 depend from these claims and are patentable for at least the same reasons. Reconsideration and withdrawal of the rejection is requested.

Applicant respectfully requests that Examiner correct the Attorney Docket Number to accurately read as AUS920010651US1. The docket number presented on the original patent application was correct, but the Attorney Docket Number reads incorrectly on all correspondence from the PTO.

In the event there are additional charges in connection with the filing of this Response, the Commissioner is hereby authorized to charge the Deposit Account No. 50-0714/IBM/0025 of the firm of the below-signed attorney in the amount of any necessary fee.

Respectfully submitted,

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